

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**THOMAS JONES, JOSEPH
CHARLES LOHFINK, SUE
BEAVERS, RODOLFOA REL, and
HAZEL REED THOMAS, on behalf
of themselves and others similarly
situated**

and

**MARTHA EZELL LOWE,
individually and on behalf of a class
of similarly situated employees,
et al.**

**CONSOLIDATED
PLAINTIFFS**

v.

CAUSE NO. 1:17cv319-LG-RHW

**KPMG LLP and TRANSAMERICA
RETIREMENT SOLUTIONS
CORPORATION**

DEFENDANTS

**MEMORANDUM OPINION AND ORDER GRANTING TRANSAMERICA
RETIREMENT SOLUTIONS CORPORATION'S MOTION
TO DISMISS FOR LACK OF JURISDICTION**

BEFORE THE COURT is the [54] Motion to Dismiss for Lack of Jurisdiction filed by the defendant Transamerica Retirement Solutions Corporation. The parties have fully briefed the Motion.

The consolidated plaintiffs, who are participants in the Singing River Health System Employees' Retirement Plan and Trust ("the Plan"), sued Transamerica Retirement Solutions Corporation and others as a result of the underfunding of the Plan. In her Complaint [5], Lowe alleges that Transamerica was retained to provide investment management for the Plan as well as investment advice to the

Plan Trustees and Plan members. She claims that Transamerica knew or should have known that Singing River Health System had defaulted on its obligations to contribute to the Plan and that Transamerica owed a duty of disclosure as a Plan fiduciary. She claims that Transamerica knowingly participated in and/or aided and abetted the former Plan Trustees' breach of fiduciary duties. Similarly, the Jones plaintiffs allege in their Third Amended Complaint [2] that Transamerica made false representations to plan participants that the Plan was adequately funded and that certain defined benefits were payable to each of them.

The special fiduciary appointed to oversee the Plan has sole authority to file lawsuits on behalf of the Plan. Therefore, for the reasons stated in this Court's [53] Memorandum Opinion and Order granting KPMG's Motion to Dismiss for Lack of Jurisdiction and the Court's Order denying Lowe's Motion to Alter Judgment, which are incorporated herein by reference, Transamerica's Motion to Dismiss is granted.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the [54] Motion to Dismiss for Lack of Jurisdiction filed by the defendant Transamerica Retirement Solutions Corporation is **GRANTED**. The plaintiffs' claims against Transamerica are hereby **DISMISSED** for lack of jurisdiction. The Court will enter a separate judgment pursuant to Fed. R. Civ. P. 58.

SO ORDERED AND ADJUDGED this the 21st day of February, 2020.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE